

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
-----X
In re:

Firm Code: 11-3410831
Motion Date: 01/06/2015 @ 10:00am

RESIDENTIAL CAPITAL, LLC,
A/K/A RESIDENTIAL CAPITAL
CORPORATION

AFFIRMATION IN SUPPORT

Chapter 11
Case No.: 12-12020

Debtor

-----X

Michael C. Manniello, an attorney duly admitted to practice
before this Court, affirms under penalty of perjury as follows:

1. I am associated with the law firm of PETER T. ROACH
AND ASSOCIATES, P.C. the attorneys of record for Bank of
America, N.A., successor by merger to BAC Home Loans Servicing,
LP (hereinafter "Applicant"). I have reviewed the file
maintained by this office and based on the documents, pleadings,
notes and other memoranda contained therein I am familiar with
the proceedings heretofore had herein.

2. I make this affirmation in support of Applicant's
motion for an Order vacating the automatic stay pursuant to 11
U.S.C. 362(d).

3. The jurisdiction of this Court is invoked pursuant to
11 U.S.C. Section 362 and the Bankruptcy Amendments and Federal
Judgeship Act of 1984.

BACKGROUND

4. Applicant holds a certain mortgage dated March 19, 2008, in the original amount of \$164,698.00, executed by Shawn Arnold, ("Mortgagor"), to collaterally secure a certain note dated the same date. The mortgage was duly recorded in the Office of the County Recorded, County of Franklin on March 28, 2008. (**See, Exhibit "A"** for copy of said Mortgage.) The Mortgage was ultimately assigned to BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing, LP by assignment of mortgage. (**See, Exhibit "C"** for copy of said assignment). Effective July 1, 2011 BAC Home Loans Servicing, LP merged with and into Bank of America, National Association ("Applicant") (**See Exhibit "E"** for copy of succession certificates).

5. The note executed by the Mortgagor herein is a fixed rate note which provides for an initial payment of principal and interest of \$1,014.07 on May 1, 2008 and a like sum of \$1,014.07 on the 1st day of each month thereafter until April 1, 2038. Said monthly payments are to be applied first to the payment of interest at the rate of 6.25% per annum and the balance of said monthly payments to be applied in reduction of principal. (**See, Exhibit "B"** for a copy of said note.)

6. The Mortgage constitutes a lien upon the premises known as 8809 Greylag Loop, Blacklick, OH 43004 ("Premises").

7. Applicant, as the holder of the Mortgage, according to

the laws of the State of Ohio and the terms and conditions of the Mortgage, desires to proceed with an action to foreclose said mortgage in the appropriate court in the State of Ohio.

7. Debtor herein also holds a mortgage lien on the Premises, but said lien is junior and subordinate to Applicant's.

8. By reason of the Debtor having filed a petition under Chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court, Southern District of New York, Applicant is stayed from proceeding with foreclosure Of its mortgage lien despite the Mortgagor being significantly in arrears in making the required mortgage payments as set forth herein.

9. The Mortgage held by Applicant was in default on the day the Debtor filed this bankruptcy case in that the Mortgagor had failed to pay the monthly mortgage installments thereon commencing with the June 1, 2012 installment due date and the grace period for such payments has far since expired.

10. According to information provided to this office by Applicant, Mortgagor has failed, neglected and refused to make the monthly mortgage payments for the months of June 1, 2012 through October 1, 2014 to Applicant and the default continues to the date hereof. The Southern District worksheet is annexed hereto as collective **Exhibit "D"**. As of the return date of the within motion, Mortgagor's June 1, 2012 through November 1, 2014

monthly mortgage payment will have become due for a total amount due and owing of \$57,199.21.

11. As a result of the Mortgagor's default, Applicant may have to expend additional monies on behalf of the debtor for the payment of real estate taxes and hazard insurance in order to protect its security interest. In addition, interest continues to accrue.

12. By reason of the failure of the Mortgagor to remit the required monthly mortgage installments commencing with the June 1, 2012 installment due date, Applicant is no longer adequately protected as to the collateral. Moreover, the amount due Applicant as of the petition date (August 28, 2014) was \$261,406.67. The broker's price opinion submitted herewith (**Exhibit "F"**) reflects an "as is" value of the Premises as \$199,000.00. Neither Mortgagor nor Debtor have any equity in the Premises as there is insufficient value in the Premises to secure any portion of Debtor's lien or any equity for the Mortgagor, and therefore cause exists to vacate the automatic stay as to Applicant.

WHEREFORE, your affirmant, as the attorney for Applicant, respectfully requests an Order of this Court vacating the automatic stay pursuant to 11 U.S.C. 362(d) as to Applicant in order that it may commence/continue the foreclosure of its mortgage against the subject real property in the appropriate

court in the State of Ohio, County of Franklin; an order granting Applicant the cost associated with bringing this motion; and for such other, further and different relief as to this Court may deem just, proper and equitable.

Dated: Syosset, New York
November 21, 2014

PETER T. ROACH AND ASSOCIATES, P.C.

/s/ Michael C. Manniello

By: Michael C. Manniello
FIRM CODE(11-3410831)
Attorney for Creditor
Bank of America, N.A., successor
by merger to BAC Home Loans
Servicing, LP
125 Michael Drive - Suite 105
Syosset, New York 11791
(516) 938-3100 Ext336